



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,952	09/08/2004	Celal Albayrak	ABS0006/US	6918
33072	7590	01/21/2010	EXAMINER	
KAGAN BINDER, PLLC SUITE 200, MAPLE ISLAND BUILDING 221 MAIN STREET NORTH STILLWATER, MN 55082			AUDET, MAURY A	
		ART UNIT	PAPER NUMBER	
		1654		
		MAIL DATE	DELIVERY MODE	
		01/21/2010	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



UNITED STATES DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10506952	9/8/04	ALBAYRAK, CELAL	ABS0006/US

EXAMINER

MAURY AUDET

ART UNIT

PAPER

1654

20100119

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

Request for Information

Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

There are outstanding rejections under 35 USC 112 2<sup>nd</sup> (among others) as to what the metes and bounds of the:

1. L2 solvent is, that dissolves the polymer, but not the active substance; and
2. What may constitute the polymer that is ultimately dissolved.

Within, the overlap of the rejection of these two elements (L2 solvent & polymer) there is an inherent issue that is not expressly addressed in the previously action nor was it immediately apparent to the Examiner. If the polymer is dissolved, how can it remain as part of the suspension of step (b) and be 'solidified' therein with the active substance in the active agent embedded therein?

There is no definition found in the disclosure of what Applicant means by the term "dissolved" in the context of the polymer.

ictionaries define the term in various ways, but a common meaning of the term "dissolved" is "to separate into parts or elements; disintegrate".

Thus, the metes and bounds of what the suspension is physically present by way of elements in the ultimate suspension of step (a), that is solidified in step (b) - and the ultimate end product - is unclear:

1. Firstly, if the polymer has been "dissolved", how can it then be solidified?
2. In step (a), if the active agent is to be precipitated in a solution, but a dissolved polymer still remains therein, how can it be said in step (b) that only the polymer is solidified?
3. And if so, what specific "aqueous surfactant solution" is able to reconnect the polymer and solidify it, as opposed to all that remains in the suspension?
4. Isn't whatever form/elements remains in the 'suspension' of step (a) - all of what remains, including the dissolved polymer and the active substance - all solidified?
5. If not, how can a polymer that has been 'dissolved' or broken up, be the only part of the suspension in step (b) that is 'solidified'?

Thus, with the scope of the subject matter of the claimed invention uncertain, the examination of the response of the

outstanding rejections cannot proceed until the above is either addressed by amendment (which could change the scope of the invention and raise new issues) or argument thereof.

It is noted that even after amendment, the claimed invention remains amorphously claimed such that a reasonable search of the art, even based on the broadest reasonable interpretation of the claims, is difficult at best. The best reasonable art that could be found was applied in the 35 USC 103 rejection, of which Applicant has argued does not teach his intended invention (review held in abeyance until the issue above is resolved).

Applicant may wish to consider claiming the L1 and L2 solvents by way of Markush group (no matter how large or how many fall therein) - especially as to L2 the solvent genus that is capable of 'dissolving' the polymer, yet not the active substance. The Examiner cannot help but assume that what may fill this role as L2 is not just any solvent - but a smaller subset of solvents that the art has found is capable of eliciting this effect - of which this Examiner remains unclear as to what falls within the scope of this functionally claimed L2 solvent.

Applicant is given ONE MONTH, or THIRTY DAYS, whichever is longer, from the mailing date of this letter within which to respond to this request for information.

#### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAURY AUDET whose telephone number is (571)272-0960. The examiner can normally be reached on M-Th. 7AM-5:30PM (10 Hrs.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA, 1/19/2010

/Maury Audet/  
Primary Examiner, Art Unit 1654